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SERVICE DATE - FEBRUARY 12, 2004

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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34460]

Eyal Shapira–Continuance in Control Exemption–Pennsylvania & Southern Railway,  
LLC

Eyal Shapira (Shapira), has filed a verified notice of exemption to continue in control of Pennsylvania & Southern Railway, LLC (P&S), upon P&S becoming a Class III rail carrier.

The transaction was expected to be consummated on February 1, 2004.

This transaction is related to the concurrently filed verified notice of exemption in STB Finance Docket No. 34461, Pennsylvania & Southern Railway, LLC–Operation Exemption–Franklin County General Authority. In that proceeding, P&S seeks to operate approximately 25 miles of track and right-of-way and associated property (occupying approximately 1,200 acres of land) located inside the Cumberland Valley Business Park and the Letterkenny Army Depot in Chambersburg, PA, which is owned by the Franklin County General Authority, a municipal authority in the Commonwealth of Pennsylvania.

Shapira currently controls two Class III rail carriers: New York & Eastern Railway LLC and Raritan Central Railway, LLC, operating in Dutchess County, NY, and Middlesex County, NJ, respectively.

Shapira states that: (1) the railroads do not connect with each other or any railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34460, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John D. Heffner, 1920 N Street, N.W., Suite 800, Washington, DC 20036.

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“WWW.STB.DOT.GOV.”

Decided: February 5, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary